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10/692,127	10/23/2003	Shengdong Chen	AUS920030659US1	2150
45502 7590 07/12/2011 Yudell Isidore Ng Russell PLLC 8911 N. Capital of Texas Hwy., Suite 2110 Austin, TX 78759			EXAMINER CHOU, ALAN S	
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* SHENDONG CHEN, WOODROW WYATT ARKEKETA,  
VIJAYLAXMI CHAKRAVARTY, and DAH-HAUR LIN

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Appeal 2009-010900  
Application 10/692,127  
Technology Center 2400

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Before JOSEPH L. DIXON, JOHN A. JEFFERY, and  
DEBRA K. STEPHENS, *Administrative Patent Judges*.

JEFFERY, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1-24. We have jurisdiction under 35 U.S.C. § 6(b). We reverse.

STATEMENT OF THE CASE

Appellants' invention improves data security by controlling transferring data from a data processing system to a network. *See generally*

Spec. ¶ 0009. Claim 1 is illustrative with key disputed limitations emphasized:

1. A method in a data processing system for controlling the transfer of data from the data processing system to a network, said method comprising the steps of:

creating a file list of one or more data files to be controlled;

creating a process list for each data file in the file list, wherein each process list identifies *one or more processes executing in the data processing system that has accessed the data file associated with the created process list*;

receiving a request from a requesting process executing in the data processing system to transfer data from the data processing system to the network;

determining if the requesting process is identified in one or more created process lists; and

if the requesting process is identified in a created process list, prohibiting the requested transfer of data from the data processing system to the network.

The Examiner relies on the following as evidence of unpatentability:

Oe	US 2002/0099837 A1	July 25, 2002
Yamaguchi	US 2004/0064572 A1	Apr. 1, 2004 (filed Sept. 25, 2003)

#### THE REJECTIONS

1. The Examiner rejected claims 1-4, 9-12, and 17-20 under 35 U.S.C. § 102(b) as anticipated by Oe. Ans. 3-5.<sup>1</sup>
2. The Examiner rejected claims 5-8, 13-16, and 21-24 under 35 U.S.C. § 103(a) as unpatentable over Oe and Yamaguchi. Ans. 5-7.

#### THE ANTICIPATION REJECTION

Regarding independent claim 1, the Examiner finds that Oe discloses a method for controlling transferring data from a data processing system to a network with every recited feature including (1) creating a “file list” which the Examiner equates to Oe’s access right management table; (2) creating a “process list” for each listed data file which is said to correspond to Oe’s list of conditions within the access right management table; and (3) prohibiting a requested data transfer from the data processing system to a network if the requesting process is identified in the process list. Ans. 3-7, 8-9.

Appellants argue that Oe does not prohibit an identified requesting process in the process list from transferring data to a network as claimed, where the process previously accessed a data file associated with the list. App. Br. 4-7; Reply Br. 2-3. The issue before us, then, is as follows:

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<sup>1</sup> Throughout this opinion, we refer to (1) the Appeal Brief filed August 4, 2008; (2) the Examiner’s Answer mailed November 24, 2008; and (3) the Reply Brief filed January 26, 2009.

## ISSUE

Under § 102, has the Examiner erred in rejecting claim 1 by finding that Oe creates a process list for each data file in a file list, where the process list identifies one or more processes executing in the data processing system that accessed the data file associated with the process list?

## FINDINGS OF FACT (FF)

1. Oe controls access to computer resource(s) managed by an operating system (OS), such as a file, network, storage device, display screen, or external device by (1) trapping an operation request from a process before accessing the resource; (2) determining if an access right for the resource is present; and, if not, (3) denying the operation request. Oe, ¶¶ 0009-13; 0351-52.

2. Oe shows various hardware configurations in Figures 1A and 1B embodying the disclosed system. Figure 1A shows a standalone computer 101 including a personal computer 1012 in which is installed an OS and resource management program. Figure 1B, however, shows multiple computers having similar configurations that are connected via network 102. Oe, ¶¶ 0213-16; Figs. 1A-1B.

3. Resource management program 203 includes an access control module 2033 with access right management table 2035. This table registers (1) resource designation information 20351 (e.g., file name/ID); (2) condition information 20352 under which the access right is validated (e.g., user name/ID, group name/ID, time, etc.); and (3) access right information 20353-2035n for each resource. Oe, ¶¶ 0015, 0218-25; Figs. 2-3.

4. The access right management table's access right information can include the right to (1) move or copy a file to another medium; (2) write to shared memory; and (3) run specific processes. This information can also include usage inhibition of an application except a specific application or inhibition of attachment to mail. Oe, ¶¶ 0018, 0225; Fig. 3.

### ANALYSIS

Based on the record before us, we find error in the Examiner's anticipation rejection of independent claim 1 which recites, in pertinent part, a process list for each data file in a file list, where the process list identifies one or more processes executing in the data processing system that *has accessed* the data file associated with the process list.

We emphasize this file access condition, for as Appellants indicate (Reply Br. 2), its past tense (“has accessed”) requires that the one or more identified processes previously accessed the associated data file. This requirement is critical, for the Examiner has not shown that Oe's “process list” (which the Examiner equates to the list of conditions in Oe's access right management table (Ans. 8)) identifies at least one process that has *previously accessed* an associated data file—a crucial deficiency on this record.

We reach this conclusion leaving aside the fact that the condition column of Oe's access right management table referred to by the Examiner merely indicates the particular conditions for validating access rights (e.g., user name/ID, group name/ID, time, etc.), and it is actually the access right information columns that list particular processes associated with files listed in the first column (i.e., “resource designation information”), namely moving

or copying files to other media, writing to memory, etc. *See* FF 3-4. But whatever column of this table is mapped to the recited “process list,” we still fail to see how one or more of these processes *necessarily* previously accessed an associated data file as claimed.

Although we agree with the Examiner (Ans. 8) that Oe reasonably teaches controlling transferring data to a network in view of Oe’s repeated references to controlling access to network-based resources and associated network-based implementations as shown in Figure 1B (*see* FF 1-2), the Examiner nonetheless fails to show that any of the identified processes *necessarily* previously accessed an associated data file as claimed.

We are therefore persuaded that the Examiner erred in rejecting (1) independent claim 1; (2) independent claims 9 and 17 which recite commensurate limitations; and (3) dependent claims 2-4, 10-12, and 18-20 for similar reasons.

#### THE OBVIOUSNESS REJECTION

Since the Examiner has not shown that Yamaguchi cures Oe’s deficiencies noted above regarding the independent claims, we reverse the obviousness rejection of dependent claims 5-8, 13-16, and 21-24 (Ans. 5-7) for similar reasons.

#### CONCLUSION

The Examiner erred in rejecting (1) claims claims 1-4, 9-12, and 17-20 under § 102, and (2) claims 5-8, 13-16, and 21-24 under § 103.

Appeal 2009-010900  
Application 10/692,127

ORDER

The Examiner's decision rejecting claims 1-24 is reversed.

REVERSED

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